

REMARKS

This application has been amended. In particular, claim 1 has been reworded to address the rejection under 35 U.S.C. §112, second paragraph. Support for this change can be found in original claim 1 as well as in lines 6-16 of page 3 of the specification as filed. Claim 31 has been amended to make it consistent with claim 17. No new matter has been added by these amendments. In addition, a typographical error in the specification has been corrected. Claims 22-30 and 35-36 have been withdrawn pursuant to the restriction requirement and subsequent election made with traverse. However, these claims are not cancelled at this time as Applicants believe rejoinder may be appropriate once claim 17 is deemed to be allowable. Accordingly, claims 17-36 are pending, of which claims 17-21 and 31-34 have been considered on the merits. For the following reasons, Applicants submit that the pending claims are patentable over the cited art of record and the application is in condition for allowance.

Rejection Under 35 U.S.C. §112, second paragraph

Claim 17 stands rejected under 35 U.S.C. §112, second paragraph for indefiniteness. In view of the foregoing amendment to claim 17, this rejection is respectfully traversed.

With respect to claim 17, the Office Action questions how there can be either glycine hydrochloride or tumeric and a ratio of both. Applicants have amended the claims to specify that the composition includes glycine hydrochloride and optionally tumeric. In other words, glycine hydrochloride is necessarily present, while tumeric is an optional component. This is described on page 3 of the specification as filed. In this regard, the interpretation given claim 17 during examination is incorrect to the extent it assumes both must be present. The ratio defined in the claims requires only that the ratio of the turmeric component to glycine hydrochloride is less than 1:5. If no tumeric is present, this would still result in a ratio of tumeric to glycine hydrochloride of less than 1:5.

Therefore, Applicants respectfully request that the rejection of claim 17 under 35 U.S.C. §112, second paragraph be withdrawn.

Rejection Under 35 U.S.C. §103(a)

Claims 17-21 and 31-34 stand rejected under 35 U.S.C. §103(a) for obviousness over U.S. Patent No. 4,163,803 to Goldscher. This rejection is respectfully traversed.

The Office Action contends that Goldscher teaches a composition like that defined in claim 17, except that Goldscher does not teach that at least 5% or at least 10% by weight of dry matter of the composition is comprised of glycine hydrochloride or tumeric. The Office Action further asserts that it would have been obvious to have used at least 5% by weight of dry matter of glycine hydrochloride or tumeric depending on the degree of the reduction of bitterness desired in the final food product. Applicants respectfully disagree that one skilled in the art considering Goldscher would use glycine hydrochloride at all, much less in the claimed amount.

Goldscher is directed to the use of a glycine containing compound as a flavoring agent, and specifically to adding a glycine compound to a composition containing tumeric in order to counteract the bitterness of natural tumeric. Goldscher mentions that glycine exists in many forms, such as purified hydrolyzed vegetable protein, alpha-glycine, betaglycine, glycine hydrochloride and cationic and anionic salts of glycine, to name a few. (Goldscher, col. 1, line 66 – col. 2, line 2.) However, Goldscher does not discuss the characteristics or properties of any particular form of glycine or distinguish any one form from any other form. It is also not readily apparent which form or forms of glycine were used in the Examples. From the discussion in Goldscher, it appears the inventor is using glycine for its sweet taste. Otherwise, it is unclear why the organoleptic property of Goldscher would have been discussed. (Goldscher, col. 1, lines 57-59.)

On the other hand, the patent abstract to Japanese Publication No. 02-190163, attached hereto as Exhibit A, describes a salt-like seasoning agent where glycine hydrochloride is described as having a salty taste and strong acetic acid-like acidity. Nothing in this abstract mentions the organoleptic property of glycine or its sweet taste. Thus, two forms of glycine can have vastly different organoleptic properties. One skilled in the art looking to Goldscher would assume a form of glycine having a sweet taste would be the preferred form to combine with the tumeric, which is described as having a certain bitterness. However, there is nothing in

Goldscher to suggest that the glycine hydrochloride form would satisfy this requirement, and the Japanese patent abstract attached as Exhibit A seems to teach away from using glycine hydrochloride in this capacity. Thus, a skilled person looking to use a sweet-tasting glycine to mask the bitter taste of tumeric (following Goldscher) and knowledgeable of the organoleptic properties of glycine hydrochloride, would not find it obvious or even advisable to use glycine hydrochloride as the form of glycine.

In any event, even if one skilled in the art would think to select glycine hydrochloride for use with tumeric (which Applicants deny would be obvious based on Goldscher), the 0.1 to 5 weight ratio of glycine to tumeric suggested in Goldscher falls far short of suggesting the high amount of glycine hydrochloride employed in the claimed invention. Given the known unpredictability of the different organoleptic properties of these substances, it would not be obvious to one skilled in the art to arrive at a flavoring composition having the relatively high amounts of glycine hydrochloride and optionally tumeric defined in the claims based solely on the limited disclosure in Goldscher.

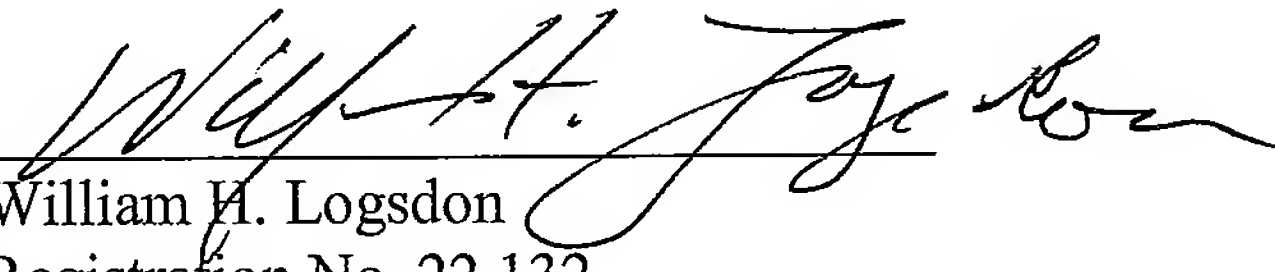
Therefore, the pending claims are patentable over Goldscher and the rejection of claims 17-21 and 31-34 should be reconsidered and withdrawn.

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CONCLUSION

For the foregoing reasons, Applicants submit that the pending claims are patentable over the cited art of record and the application is in condition for allowance. Accordingly, reconsideration of the outstanding rejections, rejoinder of claims 22-30 and 35-36 and allowance of pending claims 17-36 are respectfully requested.

Respectfully submitted,
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